

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA
BEAUFORT DIVISION

UNITED STATES OF AMERICA,)	
)	May 25, 2023
)	
- versus -)	Charleston, SC
)	
CORY HOWERTON FLEMING,)	9: 23- 394- 1
)	
Defendant.)	

TRANSCRIPT OF ARRAIGNMENT AND CHANGE OF PLEA

BEFORE THE HONORABLE RICHARD M. GERGEL
UNITED STATES DISTRICT JUDGE, presiding

A P P E A R A N C E S:

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Proceedings reported by stenographic court reporter.
Transcript produced with computer-aided transcription
software.

Karen E. Martin, RMR, CRR
US District Court
District of South Carolina

1 Thursday, May 25, 2023

2 (WHEREUPON, court was called to order at 2:10 PM)

3 THE COURT: Good afternoon. Please be seated.

4 Ms. Limehouse, ready to call your next case?

5 MS. LIMEHOUSE: Yes, Your Honor. May it please
6 the Court? We are here in the matter of the United States
7 vs. Cory Howerton Fleming, Criminal Docket No. 9:23-394.
8 We are here for purposes of a change of plea hearing to a
9 plea to an Information.

10 THE COURT: Very good.

11 Ms. Barbier, good afternoon.

12 MS. BARBIER: Good afternoon, Your Honor.

13 THE COURT: I want to confirm that your client
14 first wishes to waive indictment and to plead to an
15 Information, and that he wishes to plead guilty today
16 pursuant to a plea agreement; is that correct?

17 MS. BARBIER: Yes, sir, Your Honor. He has
18 signed the form waiving indictment and wishes to plead
19 guilty today.

20 THE COURT: Okay.

21 Could we swear the defendant, please.

22 THE CLERK: Please stand and raise your right
23 hand.

24 (WHEREUPON, the defendant was sworn.)

25 THE DEFENDANT: I do.

1 THE COURT: Mr. Fleming, good afternoon, sir.

2 THE DEFENDANT: Good afternoon, sir.

3 THE COURT: While we're speaking, if you wish to
4 take off your mask, you're able to do while you're
5 speaking. Okay?

6 THE DEFENDANT: Thank you.

7 THE COURT: Thank you. First of all, let me
8 confirm, sir, as you know, every American citizen is
9 entitled when charged with a felony to have that presented
10 to a federal grand jury and an indictment returned. That
11 can be waived under Rule 7 of the Federal Rules of
12 Criminal Procedure if you elect to do that. I know I have
13 signed -- I have here a signed form waiving indictment.
14 But I want to confirm, first, sir, that you wish to waive
15 indictment?

16 THE DEFENDANT: Yes, sir, I do.

17 THE COURT: Okay. I would next proceed to what
18 would normally be in a case an arraignment under Rule 10
19 and -- of the Federal Rules of Criminal Procedure. And we
20 will go through and make sure you understand the charges
21 against you. And first, let me ask have you had a chance
22 to review the proposed Information?

23 THE DEFENDANT: Yes, sir, I have.

24 THE COURT: You've had a chance to review that
25 with your attorney?

1 THE DEFENDANT: Yes, sir.

2 THE COURT: Let me if I might provide you a
3 summary of the Information, the charge against you, to
4 satisfy myself that you understand what we will be later
5 proceeding to a guilty plea today, but certainly for
6 purposes of arraignment to make sure you understand the
7 charge against you, sir.

8 It alleges -- you understand that you -- that
9 the indictment -- the Information asserts that you have
10 committed wire fraud in violation of federal law. Do you
11 understand that, sir?

12 THE DEFENDANT: Yes, sir.

13 MS. LIMEHOUSE: It's actually, Your Honor, just
14 to clarify a conspiracy to commit wire fraud.

15 THE COURT: It's a conspiracy.

16 MS. LIMEHOUSE: Yes, Your Honor.

17 THE COURT: It's a conspiracy to commit wire
18 fraud and it sets forth the object of that conspiracy.
19 And it asserts that you submitted what was -- what is
20 described in the Information as a fake disbursement sheet
21 to a circuit court outlining fraudulent prosecution
22 expenses. Do you feel like you understand that charge,
23 sir?

24 THE DEFENDANT: Yes, sir.

25 THE COURT: It further alleges that you

1 submitted a second fake disbursement sheet to a circuit
2 court outlining inaccurate attorney fees and fraudulent
3 prosecution expenses. Do you feel like you understand
4 that charge?

5 THE DEFENDANT: Yes, sir.

6 THE COURT: And as we will go through when we go
7 through the proposed plea agreement, the allegation here
8 is that you were part of a conspiracy with another person,
9 another person not indicted with you. Do you understand
10 that, sir?

11 THE DEFENDANT: Yes, sir.

12 THE COURT: And that person is Richard Alexander
13 Murdaugh; is that correct?

14 THE DEFENDANT: Yes, sir.

15 THE COURT: And you understand the factual
16 summary set forth here that lays out and the scheme
17 detailing the allegations set forth in the Information?
18 You understand those?

19 THE DEFENDANT: Yes, sir.

20 THE COURT: And you -- having been informed of
21 those, do you intend to plead guilty or not guilty to the
22 Information?

23 THE DEFENDANT: Guilty, sir.

24 THE COURT: Okay. Let me proceed now if I might
25 to the guilty plea itself. Ms. Barbier, if you would

1 approach my courtroom deputy, she's going to hand you the
2 plea agreement. And I want Mr. Fleming to confirm that is
3 his signature on the plea agreement.

4 MS. BARBIER: Yes, sir. Thank you.

5 THE DEFENDANT: Yes, sir, it is.

6 THE COURT: Very good. If you could return it,
7 please, to me.

8 Mr. Fleming, before I can accept your plea of
9 guilty, it is necessary for me to make sure that you
10 understand your legal rights, you understand the
11 consequences of your guilty plea, and that there's a
12 factual basis to support your plea of guilty. I'm going
13 to ask you a series of questions. If I ask you a question
14 you do not understand, would you ask me to rephrase it?

15 THE DEFENDANT: Yes, sir.

16 THE COURT: And if I ask you a question in which
17 you would like to consult with Ms. Barbier and you let me
18 know that, I will give you an opportunity to consult
19 privately with your attorney. Okay?

20 THE DEFENDANT: Yes, sir.

21 THE COURT: Now, we just a moment ago took an
22 oath to tell me the truth, correct?

23 THE DEFENDANT: Yes, sir.

24 THE COURT: That obligates you to answer my
25 questions honestly, does it not?

1 THE DEFENDANT: Yes, sir.

2 THE COURT: And you understand if you were not
3 to answer a question honestly, you could face further
4 prosecution for perjury or making a false statement. Do
5 you understand that?

6 THE DEFENDANT: Yes, sir.

7 THE COURT: Mr. Fleming, how old are you, sir?

8 THE DEFENDANT: Fifty-four.

9 THE COURT: How far did you go in school?

10 THE DEFENDANT: Graduated law school.

11 THE COURT: Are you currently under the
12 influence of any drug, medication, or alcoholic beverage?

13 THE DEFENDANT: No, sir.

14 THE COURT: Have you ever been treated for
15 mental illness?

16 THE DEFENDANT: No, sir.

17 THE COURT: Have you ever been treated for
18 addiction to alcohol or narcotic drugs?

19 THE DEFENDANT: No, sir.

20 THE COURT: Ms. Barbier, do you have any doubt
21 as to the defendant's competence to plead?

22 MS. BARBIER: I have no doubts of his
23 competence, Your Honor. He has, you know, had bouts of
24 anxiety and depression. I just wanted to make that clear.
25 But I have no doubts of his competency.

1 THE COURT: Well, let me come back to you,
2 Mr. Fleming. Is the fact that you've had instances of
3 depression and anxiety, is that affecting your ability to
4 understand the proceeding here today?

5 THE DEFENDANT: No, sir.

6 THE COURT: Would you assure me if for any
7 reason you didn't understand something we were doing you
8 would let me know that?

9 THE DEFENDANT: Yes, sir.

10 THE COURT: Very good.

11 Ms. Limehouse, do you have any doubt as to the
12 defendant's competence to plead?

13 MS. LIMEHOUSE: No doubts from the Government,
14 Your Honor.

15 THE COURT: I do find that the defendant is
16 competent to plead to these charges.

17 Mr. Fleming, have you had an ample opportunity
18 to discuss this case with your attorney?

19 THE DEFENDANT: Yes, sir.

20 THE COURT: Are you satisfied with Mr. Barbier's
21 representation?

22 THE DEFENDANT: Yes, sir.

23 THE COURT: Has she done everything you've asked
24 her to do?

25 THE DEFENDANT: She has, yes, sir.

1 THE COURT: Is there anything else you would
2 want her to do before we proceed with your guilty plea
3 this afternoon?

4 THE DEFENDANT: No, sir.

5 THE COURT: Let's talk a little bit about your
6 legal rights. It's not every day I have an attorney
7 before me, but I do from time to time have the unfortunate
8 responsibility of taking a guilty plea from an attorney.
9 But let me go through my standard questioning to you
10 because I think everyone should have basically the same
11 plea colloquy. Do you understand that under the
12 constitution and laws of the United States, you have the
13 right to plead not guilty? You understand that, sir, do
14 you not?

15 THE DEFENDANT: Yes, sir.

16 THE COURT: And also do you understand that if
17 you request it, you have a right to a trial by jury?

18 THE DEFENDANT: Yes, sir.

19 THE COURT: If you decided to plead not guilty
20 and request a jury trial, you would be afforded a number
21 of significant legal rights. Let me highlight some of the
22 more important one.

23 You would have the right to assistance of
24 counsel at every stage of the criminal proceeding. You
25 would be presumed innocent and the Government would have

1 to prove you guilty beyond a reasonable doubt. You would
2 not have to prove that you were innocent.

3 The witnesses for the Government would have to
4 come to court and testify in your presence. Ms. Barbier
5 could cross-examine those witnesses and offer other
6 witnesses on your behalf.

7 While you would have a right to testify if you
8 chose to do so, you would also have the constitutional
9 right to silence; that is, not to testify. And if you
10 elected to do that, I would inform the jury that no
11 inference or suggestion of guilt could be drawn from the
12 fact that you had not testified. You would also have the
13 right to issue subpoenas to compel the attendance of
14 witnesses and the production of documents in your defense.

15 Now, Mr. Fleming, do you understand these rights
16 as I have just outlined them to you, sir?

17 THE DEFENDANT: Yes, sir.

18 THE COURT: Do you understand that if you plead
19 guilty, you will have to give up your right to a jury
20 trial and the other rights I have just listed for you.
21 There will be no trial. And I will enter a judgment of
22 guilty and sentence you on the basis of your guilty plea.
23 Do you understand that, sir?

24 THE DEFENDANT: Yes, sir.

25 THE COURT: Do you also understand that if you

1 plead guilty, you have the give up your right not to
2 incriminate yourself because I need ask you sufficient
3 questions to satisfy myself that there's a factual basis
4 for your guilty plea and you will have to acknowledge to
5 me your guilt. Do you understand that, sir?

6 THE DEFENDANT: Yes, sir.

7 THE COURT: Do you understand you may be
8 required to make restitution to the victims of your acts
9 either by the payment of money or in personal services as
10 may be directed by this Court?

11 THE DEFENDANT: Yes, sir.

12 THE COURT: Do you understand that if you plead
13 guilty, I can order you to forfeit certain property to the
14 Government?

15 THE DEFENDANT: Yes, sir.

16 THE COURT: Do you understand that if you plead
17 guilty, I am obligated to impose a special assessment,
18 which in this case is \$100? Do you understand that, sir?

19 THE DEFENDANT: Yes, sir.

20 THE COURT: Do you understand that since the
21 offense you're pleading is a felony conviction, that if
22 your plea is accepted, you may be deprived of valuable
23 civil rights, such as the right to vote, hold public
24 office, serve on a jury, or possess a firearm of any type?
25 Do you understand that, sir?

1 THE DEFENDANT: Yes, sir.

2 THE COURT: Now, as we discussed earlier, you
3 have -- you've had a chance to review the Information; is
4 that correct, sir?

5 THE DEFENDANT: Yes, sir.

6 THE COURT: Let me -- the count here is a
7 conspiracy count to commit wire fraud violating 18 United
8 States Code 371. The Government to establish your guilt
9 would need to establish the following facts. That you
10 agreed with one or more persons, to commit wire fraud, you
11 did it knowingly, and there was an overt act in
12 furtherance of the conspiracy which was committed in the
13 District of South Carolina during the period alleged in
14 the Information. Do you feel like you understand the
15 elements the Government would have to establish to find
16 you guilty? Do you understand those?

17 THE DEFENDANT: Yes, sir.

18 THE COURT: Based upon my colloquy and earlier
19 colloquy in the arraignment, I do find the defendant
20 comprehends and understands the nature of the charges
21 against him and generally what elements the Government
22 would have to prove if a trial were held.

23 The potential penalty for conspiracy under 18
24 USC 371 is a maximum term of imprisonment up to five
25 years, a fine up to \$250,000, supervised release of up to

1 three years, and special assessment of \$100.

2 Now, Mr. Fleming, if you plead guilty or if you
3 were to be convicted by a jury, it becomes my
4 responsibility to impose an appropriate sentence. In
5 determining that sentence, I am required to consider the
6 statutory factors set out under federal statutory law and
7 the sentencing guidelines of the United States Sentencing
8 Commission. Have you and Ms. Barbier have a chance to
9 review those federal statutes and sentencing guidelines
10 and how they may affect your sentence?

11 THE DEFENDANT: Yes, sir.

12 THE COURT: Do you understand that I will not be
13 sentencing you here today, there will be later a
14 sentencing hearing following the receipt of a Presentence
15 Report. Do you understand that?

16 THE DEFENDANT: Yes, sir.

17 THE COURT: Do you understand the sentence
18 imposed by this Court may be different from any estimate
19 your attorney may have provided you? Do you understand
20 that?

21 THE DEFENDANT: Yes, sir.

22 THE COURT: And do you understand if the
23 sentence is more severe than you expected, you will not
24 have a right to withdraw your guilty plea? Do you
25 understand that?

1 THE DEFENDANT: Yes, sir.

2 THE COURT: Do you understand that under some
3 circumstances, you or the Government may have a right to
4 appeal a sentence I impose? Do you understand that?

5 THE DEFENDANT: Yes, sir.

6 THE COURT: Now, when we go through the plea
7 agreement there's a partial appeal waiver. And I'll
8 highlight that when we go through that with you to make
9 sure that you understand that.

10 Now, in federal court following any period of
11 incarceration, we have something called supervised
12 release. In supervised release, a defendant is required
13 to maintain certain standards of behavior. And if the
14 defendant does not do that, he could be sent back to
15 prison. Do you understand that, sir?

16 THE DEFENDANT: Yes, sir.

17 THE COURT: Now, Mr. Fleming, are you pleading
18 guilty of your own free will because you are guilty?

19 THE DEFENDANT: Yes, sir.

20 THE COURT: Has anyone threatened you or forced
21 you in any way to plead guilty?

22 THE DEFENDANT: No, sir.

23 THE COURT: Has anyone promised you a specific
24 jail sentence?

25 THE DEFENDANT: No, sir.

1 THE COURT: I'm going to ask the Assistant
2 United States Attorney to summarize the plea agreement. I
3 want you to listen carefully, Mr. Fleming, because I'm
4 going to come back to you and ask you is that consistent
5 with your understanding of the plea agreement.

6 Ms. Limehouse?

7 MS. LIMEHOUSE: Thank you, Your Honor.

8 MS. BARBIER: Your Honor, if I could, just going
9 back so the record is clear? Mr. Fleming does have a
10 prescription medication that he's given the names of to
11 the probation office. They have no effect whatsoever on
12 his ability to understand and answer your questions, but I
13 just wanted to make sure --

14 THE COURT: I actually have a copy of that and I
15 have seen those medications. I did not -- I would have
16 raised them if I thought they impaired him in any way.
17 And I will simply say for the record, Ms. Barbier, I've
18 observed him, he seems fully to understand what we're
19 doing.

20 MS. BARBIER: I agree totally, Your Honor.

21 THE COURT: Thank you.

22 Please, Ms. Limehouse.

23 MS. LIMEHOUSE: Thank you, Your Honor.

24 Paragraph 1 of the plea agreement sets forth the
25 count of the Information that the defendant is agreeing to

1 plead guilty to; that is, Count 1, conspiracy to commit
2 wire fraud in violation of 18 USC 371. Paragraph 1
3 further sets forth the elements that the Government would
4 have to prove to establish his guilt as well as the
5 penalties that he's facing by pleading guilty as Your
6 Honor has previously reviewed with him.

7 Paragraph 2 of the plea agreement outlines the
8 monetary penalties that he's facing by pleading guilty,
9 including a special assessment fee of \$100, potential
10 restitution, and fines.

11 Paragraph 3 outlines that the defendant
12 understands that the Government's obligations under this
13 plea agreement are expressly contingent upon him abiding
14 by federal and state laws and complying with any bond
15 executed in this case. And that if he fails to comply
16 with any of the provisions of this agreement, the
17 Government will have the right to void all of its
18 obligations under this agreement and the defendant will
19 not have the right to withdraw his guilty plea.

20 Paragraph 4 is a cooperation provision under
21 which the defendant agrees to be fully truthful and
22 forthright with federal, state, and local law enforcement
23 agencies by providing full, complete, and truthful
24 information about all criminal activities about which he
25 has knowledge. The defendant must provide full, complete,

1 and truthful debriefings about these unlawful activities,
2 and must fully disclose and provide truthful information
3 to the Government, including any books, papers, or
4 documents, or other items of evidentiary value to this
5 investigation.

6 The cooperation provision further provides the
7 defendant must testify fully and truthfully before any
8 grand juries and at any trials or other proceedings if
9 called upon to do so by the Government subject to
10 prosecution for perjury for not testifying truthfully.

11 The paragraph further sets forth that the
12 defendant, if he fails to be fully truthful and forthright
13 at any stage of these proceedings, at the Government's
14 sole election his obligations -- our obligations under
15 this agreement will become null and void.

16 Further, it's expressly agreed that if the
17 obligations of the Government under this agreement become
18 null and void due to his lack of truthfulness, he
19 understands that he will not be permitted to withdraw his
20 guilty plea. All additional charges known to the
21 Government may be filed against him. The Government will
22 argue for a maximum sentence for the offense to which he
23 has pleaded guilty. And the Government will use any and
24 all information and testimony that he has provided
25 pursuant to this agreement or at any prior proffer

1 agreements in his prosecution.

2 Paragraph 5 is a polygraph provision under which
3 the defendant agrees to submit to such polygraph
4 examinations as may be requested by the Government and
5 agrees that any such examinations shall be performed by a
6 polygraph examiners selected by the Government. The
7 defendant further agrees that his refusal to take or
8 failure to pass any such polygraph examination to the
9 Government's satisfaction will result at the Government's
10 sole discretion in the obligations of the Government
11 becoming null and void.

12 Paragraph 6 outlines the Government agrees that
13 any self-incriminating information provided by the
14 defendant as a result of his cooperation required under
15 the terms of this agreement, although available to the
16 Court, will not be used against him in determining his
17 applicable guideline range for sentencing pursuant to the
18 sentencing guidelines. This paragraph shall not be
19 applied to restrict any information that was known to the
20 Government prior to the date of this agreement concerning
21 the existence of prior convictions and sentences, in a
22 prosecution for perjury or giving a false statement, in
23 the event that he breaches any of the terms of this plea
24 agreement, or used to rebut any evidence or arguments
25 offered on his behalf at any stage of the criminal

1 prosecution.

2 Paragraph 7 outlines that if the defendant
3 cooperates pursuant to the provisions of this plea
4 agreement, and that that cooperation is deemed by the
5 Government as providing substantial assistance in the
6 investigation or prosecution of another person, the
7 Government agrees to move the Court for a downward
8 departure or reduction of his sentence pursuant to 5K1.1
9 and 18 USC 3553. Any such motion by the Government is not
10 binding on the Court however. And should the Court deny
11 the motion, the defendant will not have the right to
12 withdraw his guilty plea.

13 Paragraph 8 outlines that the parties agree that
14 the amount of monies received by the defendant and his
15 former law firm have been disgorged to the victims in this
16 case.

17 Paragraph 9 outlines that if the defendant
18 cooperates and otherwise complies with all of the
19 conditions of this agreement, the Government agrees to
20 recommend that the defendant serve any and all terms of
21 imprisonment imposed as a result of his conduct and plea
22 of guilty to the offense enumerated here, as well as any
23 related conduct and convictions for violations of state
24 law, absent any terms of probation and/or supervised
25 release concurrently in the Bureau of Prisons. The

1 Government further agrees to recommend the defendant will
2 not serve any term of incarceration within the South
3 Carolina Department of Corrections.

4 The obligations of the United States in this
5 paragraph are, of course, contingent upon him providing
6 truthful cooperation and satisfactory compliance with all
7 the cooperation provisions in this plea agreement. And
8 the defendant understands that his failure to
9 satisfactorily comply with all terms of this agreement or
10 to truthfully cooperate may result in a service of his
11 sentence at the South Carolina Department of Corrections.

12 I do want to say, Your Honor, this is just a
13 recommendation.

14 THE COURT: I'm about to jump right into this,
15 Ms. Limehouse, because I want the defendant to fully
16 understand the limits of this.

17 There are several conditions here. Number one,
18 this is a recommendation from the prosecution to the
19 Court, number one. And Ms. Limehouse is probably one of
20 the world's experts that I don't always follow what she
21 recommends to me or her office recommends to me, though I
22 always try to give it the most serious consideration.
23 That's number one.

24 Two number, we've got multiple other parties
25 here that affect this. One of them is the state

1 prosecutors and the state court. I have no control over
2 them. And depending on when the sentence might be imposed
3 in state court, a state judge could make anything I did
4 consecutive to that.

5 The Bureau of Prisons is another free actor here
6 sometimes about who has priority. And believe me, the
7 issue of when there are parallel prosecutions is no easy
8 issue. Ms. Limehouse has been through this with me before
9 in other cases where it is not clear always from the start
10 of exactly who has the first custody of a defendant who is
11 convicted both in state and federal court.

12 So, Mr. Fleming, I want to just make a couple of
13 things make sure you understand. Number one, there is no
14 guarantee you would serve -- you would not serve a period
15 of incarceration in state court. Do you understand that?

16 THE DEFENDANT: Yes, sir.

17 THE COURT: And do you understand that to the
18 extent that the circumstances lead to state imprisonment,
19 that you have no right to withdraw your guilty plea; it's
20 not conditioned on that and there's no guarantee of where
21 you will serve. Do you understand that?

22 THE DEFENDANT: Yes, sir.

23 THE COURT: The totality of the plea agreement
24 is that the US Attorney's Office will recommend that to
25 this Court and apparently to the state prosecutors.

1 Is that correct?

2 MS. LIMEHOUSE: Yes, Your Honor.

3 THE COURT: And that's if -- and you fully
4 appreciate that, sir, do you not?

5 THE DEFENDANT: Yes, sir.

6 THE COURT: Very good.

7 Ms. Limehouse, please continue.

8 MS. LIMEHOUSE: Thank you, Your Honor.

9 Paragraph 10 outlines the defendant's
10 relationship with his attorney under which he represents
11 to the Court that he has met with his attorney on a
12 sufficient number of occasions and for a sufficient period
13 of time to discuss his case and receive advice. That he's
14 been truthful with his attorney and related all
15 information of which he is aware pertaining to this case.
16 That he and his attorney have discussed the possible
17 defenses, if any, to the charges, including the existence
18 of any exculpatory or favorable evidence or witnesses,
19 discussed his right to a trial by jury, the right to the
20 assistance of counsel throughout the proceedings, the
21 right to call witnesses on his behalf and compel their
22 attendance at a trial, the right to confront and
23 cross-examine the Government's witnesses, his right to
24 testify on his own behalf or to remain silent with no
25 adverse inferences drawn therefrom; and that the

1 defendant, with the advice of counsel, has weighed the
2 relative benefits of a trial by jury or by the Court
3 versus a plea of guilty pursuant to this agreement and has
4 entered this agreement as a matter of his free and
5 voluntary choice and not as a result of any pressure or
6 intimidation.

7 Paragraph 11 is the limited waiver provision
8 that Your Honor previously referenced on the record under
9 which the defendant acknowledges the rights he has under
10 18 USC 3742 and 28 USC 2255. And that in exchange for the
11 concessions made by the Government in this plea agreement,
12 he waives the right to contest either his conviction or
13 sentence in any direct appeal or other post-conviction
14 action, and that includes in a 2255. This waiver is
15 limited, however, and does not apply to claims of
16 ineffective assistance of counsel, prosecutorial
17 misconduct, or future changes in the law that may affect
18 his sentence.

19 THE COURT: Let me, Mr. Fleming, highlight this
20 particular provision. Every defendant has a right to file
21 an appeal regarding his or her conviction or his or her
22 sentence, even one who pleads guilty. You're partially
23 waiving that right. You're preserving the right to appeal
24 for claims of ineffective assistance of counsel,
25 prosecutorial misconduct, or a change of law -- in the law

1 that affects the lawfulness of your sentence. Other than
2 that, you're waiving your appeal rights. Do you
3 understand that, sir?

4 THE DEFENDANT: Yes, sir.

5 THE COURT: Very good.

6 Ms. Limehouse, please continue.

7 MS. LIMEHOUSE: Paragraph 12 outlines that the
8 defendant waives all rights, whether asserted directly or
9 by a representative, to request or receive from any
10 department or agency of the United States any records
11 pertaining to the investigation or prosecution of this
12 case.

13 The parties agree that the plea -- excuse me,
14 the last Paragraph, Your Honor, Paragraph 13 is a merger
15 provision under which the parties agree that the plea
16 agreement contains the entire agreement between the
17 parties; that it supersedes all prior promises,
18 representations, and statements; and that it shall not be
19 binding on any party until he tenders his plea of guilty
20 in this court; that it may be modified only in writing
21 signed by all parties; and that any and all other
22 promises, representations, and statements, whether made
23 prior to, contemporaneous with, or after this agreement,
24 are null and void.

25 THE COURT: Okay. Mr. Fleming, you've heard the

1 summary provided by the Assistant United States Attorney.
2 Is that consistent with your understanding of your plea
3 agreement?

4 THE DEFENDANT: Yes, sir.

5 THE COURT: Okay. I'm now going to ask
6 Ms. Limehouse to summarize the evidence the Government
7 would offer if a trial were held in this case. Now,
8 Mr. Fleming, this is important. You need to listen
9 carefully because I'm going to come back and ask you do
10 you dispute any of those facts; and if you do, which
11 specific facts you dispute. So listen carefully.

12 Ms. Limehouse.

13 MS. LIMEHOUSE: Thank you, Your Honor.

14 On February 26th, 2018, Richard Alexander
15 Murdaugh's housekeeper, Gloria Satterfield, died following
16 what was reported as a slip and fall down the stairs of a
17 home owned by Murdaugh caused by his dogs. Murdaugh
18 recommended Gloria Satterfield's sons hire the defendant,
19 Cory Fleming, to represent them and submit a claim against
20 Murdaugh to collect from his homeowner's insurance
21 policies.

22 From March of 2018, the defendant and Alex
23 Murdaugh knowingly and intentionally conspired and engaged
24 in a scheme to defraud the estate and to obtain money and
25 property from the estate by means of materially false and

1 fraudulent pretenses and representations, and by making
2 false and misleading statements, and omitting facts
3 necessary to make the statements truthful and not
4 misleading.

5 From its inception, the arrangement between the
6 defendant and his clients was not a traditional
7 attorney/client relationship. Murdaugh, the defendant on
8 the insurance claim, directed Fleming's actions;
9 communicated directly with the estate; retained the
10 personal representative, who was an unwitting participant
11 in Murdaugh's scheme; and made decisions about the
12 resolution of the claim.

13 On December 4 of 2018, Murdaugh's primary
14 insurance carrier settled the claim for \$505,000. The
15 settlement check was drafted to the personal
16 representative and the defendant's law firm. The personal
17 representative endorsed the \$505,000 check to the
18 defendant's law firm giving the defendant control over the
19 funds.

20 On January 7th, 2019, as part of the scheme, the
21 defendant submitted a fraudulent disbursement sheet to the
22 circuit court outlining the disbursement of the settlement
23 funds. The fraudulent disbursement sheet outlined \$11,500
24 in prosecution expenses. However, there were no
25 legitimate prosecution expenses.

1 In March of 2019, following a mediation,
2 Murdaugh's umbrella insurer agreed to settle the estate's
3 claim for \$3.8 million. On April 18th, 2019, the
4 insurance carrier drafted a \$3.8 million check to the
5 personal representative of the estate and to the
6 defendant's law firm. The personal representative
7 endorsed the check to the defendant's law firm giving the
8 defendant control over the funds.

9 On May 13th, 2019, as part of the scheme, the
10 defendant submitted a fraudulent disbursement sheet to the
11 circuit court attaching it to a petition for approval of
12 settlement. The disbursement sheet did not reflect the
13 accurate distribution of the settlement funds. The
14 disbursement sheet fraudulently outlined the disbursement
15 of \$1,435,000 in attorneys' fees and \$2,765,000 to the
16 estate. However, the defendant collected approximately
17 \$672,595.85 in attorneys' fees, less than half of the
18 attorneys' fees he reported to the circuit court.

19 The May 2019 disbursement sheet further outlined
20 \$105,000 in prosecution expenses. However, there were no
21 legitimate prosecution expenses. The defendant and
22 Murdaugh intended to use these funds for their own
23 personal enrichment.

24 As part of the scheme, the defendant directed
25 the drafting of checks from his trust account from funds

1 belonging to the estate to his personal bank account. The
2 defendant fraudulently claimed that the disbursements of
3 settlement funds from his trust account were to pay for
4 valid expenses related to the estate's claim against
5 Murdaugh. In three separate transactions totaling
6 \$26,200, the defendant fraudulently transferred settlement
7 funds belonging to the estate to his personal account
8 knowing that the funds belonged to the estate and that
9 there were no legitimate legal expenses.

10 As further part of the scheme, and at Murdaugh's
11 direction, the defendant fraudulently retained more than
12 \$150,000 in prosecution expenses in his trust account for
13 the benefit and personal enrichment of the defendant and
14 Richard Alexander Murdaugh knowing that the funds belonged
15 to the estate and that there were no legitimate
16 prosecution expenses.

17 At Murdaugh's direction, the defendant issued
18 checks made payable to Forge totaling \$3,483,431.95. The
19 Forge account was later determined to be a personal bank
20 account controlled by Murdaugh with no affiliation to a
21 legitimate business. Although the defendant did conspire
22 with Murdaugh to steal funds belonging to the Estate of
23 Gloria Satterfield, the defendant had no knowledge of the
24 fake Forge accounts or Alex Murdaugh's scheme to launder
25 and steal money through those accounts.

1 THE COURT: Okay. Mr. Fleming, you've heard the
2 summary provided by the Assistant United States Attorney.
3 Do you dispute any of those facts?

4 THE DEFENDANT: No, sir.

5 THE COURT: Are you telling me under oath that
6 the statements made by the Assistant United States
7 Attorney are accurate?

8 THE DEFENDANT: Yes, sir.

9 THE COURT: Let me understand just a little bit.
10 There are two areas here, one of them is that you -- make
11 sure I understand this. There was representation to the
12 circuit court at the time you were obtaining approval of
13 the settlement that attorneys' fees totaled \$1.43 million;
14 is that correct?

15 THE DEFENDANT: Yes, sir.

16 THE COURT: But in fact you intended only to
17 take 672,000; is that correct?

18 THE DEFENDANT: Yes, sir.

19 THE COURT: Where was the rest of the money to
20 go?

21 THE DEFENDANT: Um, well, as the Information
22 says, a portion of it was going to be spent by
23 Mr. Murdaugh, approximately a hundred thousand dollars.
24 And then the rest of it, I was under the impression, were
25 going to the beneficiaries of the estate.

1 THE COURT: Well, why would -- if the fees are
2 \$670,000, then naturally it would go to the beneficiaries
3 of the estate, correct?

4 THE DEFENDANT: I thought they did.

5 THE COURT: But you understand what I'm saying
6 is that normally you wouldn't need to overstate your legal
7 fees because the net amount is what goes to the
8 beneficiaries, correct?

9 THE DEFENDANT: Yes, sir.

10 THE COURT: So let me understand this a little
11 bit better. One day we're going to have a sentencing
12 hearing. I need to understand this. Where did you think
13 the 600-and-some-odd-thousand dollars was going to go if
14 not -- was Mr. Murdaugh to get some portion of it?

15 THE DEFENDANT: A portion, yes, sir.

16 THE COURT: How much?

17 THE DEFENDANT: Around a hundred thousand
18 dollars roughly.

19 THE COURT: Now, is that a normal thing that
20 defendants get, a hundred thousand dollars of the
21 plaintiff's attorneys' fees?

22 THE DEFENDANT: No, sir.

23 (WHEREUPON, the defendant and attorney spoke
24 privately.)

25 THE COURT: And what was the thinking behind the

1 expenses, overstatement of expenses? Where was that money
2 to go?

3 THE DEFENDANT: It was -- that was just sort of
4 a holding -- just a number that was a holding spot.

5 THE COURT: For?

6 THE DEFENDANT: Just because I didn't know what
7 exactly Mr. Murdaugh was wanting to do with regard to the
8 money. And I didn't exactly know how we would reduce --
9 how we were going to reduce the fee to free up the money
10 so that he could have some.

11 THE COURT: You knew he was stealing part of the
12 money?

13 THE DEFENDANT: Part of it, yes, sir.

14 THE COURT: Did you know how much?

15 THE DEFENDANT: Well, he never actually did, he
16 never actually got into any of that money. But anywhere
17 between a hundred to \$200,000 was sort of the amount of
18 money that was sitting there available.

19 THE COURT: For him? And you thought he would
20 get?

21 THE DEFENDANT: Potentially, yes, sir.

22 THE COURT: And do you know why he didn't get
23 it? How that didn't happen?

24 THE DEFENDANT: I really don't. The way he
25 described it was that he was going to get something out of

1 this, too, was the quote I remember. And that he --

2 THE COURT: And you knew that was wrong?

3 THE DEFENDANT: Oh, absolutely, yes, sir. I
4 did.

5 MS. BARBIER: And Your Honor, if I may
6 interject? I believe Mr. Murdaugh's intent from the
7 beginning was to steal all of the money. And his
8 representations to Mr. Fleming was that he was going to
9 steal only a portion of the money.

10 THE COURT: It's a little bit hard to be the
11 defendant and steal all the money.

12 MS. BARBIER: Correct.

13 THE COURT: Right? I mean, that's a little hard
14 to do.

15 MS. BARBIER: Correct. Correct. But the money
16 left in the trust at Mr. Murdaugh's direction, and the
17 second disbursement sheet says 191,000, was for the
18 purpose of Mr. Murdaugh and Mr. Fleming's benefit. And it
19 was falsely represented as expenses and that was
20 inaccurate and false.

21 THE COURT: And, Mr. Fleming, were you intending
22 to take some portion of that \$190,000?

23 THE DEFENDANT: Potentially, yes, sir, or
24 benefit from it. And essentially the \$26,000 mentioned in
25 the --

1 THE COURT: The initial one?

2 THE DEFENDANT: Yes, sir, I did take that.

3 THE COURT: And you did -- in fact did not --
4 and did not actually incur expenses to support that?

5 THE DEFENDANT: No, sir, no, not at all.

6 THE COURT: So the summary provided by the
7 Assistant United States Attorney, you're telling me under
8 oath, is accurate; is that correct?

9 THE DEFENDANT: Yes, sir.

10 THE COURT: Very good.

11 It's the finding of the Court in the case of the
12 United States vs. Cory Howerton Fleming that the defendant
13 is fully competent and capable of entering an informed
14 plea, that the defendant is aware of the nature of the
15 charges and the consequences of the plea, and that a plea
16 of guilty is a knowing and voluntary plea supported by an
17 independent basis in fact containing each of the essential
18 elements of the offense. The plea is therefore accepted
19 and the defendant is now adjudged guilty of the offense.

20 And Ms. Barbier, if you would approach
21 Ms. Perry, she will hand you the guilty plea for
22 Mr. Fleming's signature.

23 MS. BARBIER: Thank you.

24 (WHEREUPON, the defendant signed the plea.)

25 THE COURT: Mr. Fleming, we will gather again

1 after a Presentence Report is prepared. My probation
2 office will work with you to provide me the fullest sort
3 of understanding presentencing. The probation officer
4 works for me, doesn't work for the prosecutor. I urge you
5 to cooperate so I can get a better understanding of sort
6 of the full picture here and the full person that I will
7 be sentencing.

8 My magistrate judge, Judge Cherry, will address
9 bond issues and my Marshals will escort you over there for
10 that.

11 Any further matters to come before the Court at
12 this point?

13 MS. LIMEHOUSE: Nothing from the Government,
14 Your Honor.

15 THE COURT: Ms. Barbier?

16 MS. BARBIER: Nothing further, Your Honor.
17 Thank you for making time to do this today.

18 THE COURT: Glad to do it.

19 This hearing is adjourned.

20 (WHEREUPON, court was adjourned at 2:47 PM)

21 * * *

22 I certify that the foregoing is a correct transcript from
23 the record of proceedings in the above-entitled matter.

24 s/Karen E. Martin

5/26/2023

25 Karen E. Martin, RMR, CRR

Date